

R381-70-2: DEFINITIONS

This section provides definitions of words that are specific to Child Care Licensing (CCL) or are used multiple times in licensing rules.

- (1) **"Applicant" means a person or business who has applied for a new or a renewal of a license, certificate, or exemption from Child Care Licensing.**
- (2) **"ASTM" means American Society for Testing and Materials.**

Rationale / Explanation

ASTM International is an organization that sets health and safety standards to reduce life-threatening and debilitating injuries. CCL uses many of these standards when assessing play areas and equipment.

- (3) **"Background Finding" means information in a background check that may result in a denial from Child Care Licensing.**
- (4) **"Background Check Denial" means that an individual has failed the background check and is prohibited from being involved with a program licensed by Child Care Licensing.**

Rationale / Explanation

Refer to "Section 8: Background Checks" for a complete description of the reasons why an individual will not pass a CCL background check.

According to Utah statute 26-39-404, a licensee or an exempt provider may not permit a person who has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for any felony or misdemeanor to provide child care, volunteer, reside, or serve in any ownership or administrative capacity in a child care facility or program.

- (5) **"Barrier" means an enclosing structure such as a fence, wall, bars, railing, or solid panel to prevent accidental or deliberate movement through or access to something.**
- (6) **"Body Fluid" means blood, urine, feces, vomit, mucus, and/or saliva.**
- (7) **"Business Days/Hours" means the days of the week and times the facility is open for business.**
- (8) **"Capacity" means the maximum number of children allowed in the program at any given time.**
- (9) **"CCL" means the Child Care Licensing program in the Department of Health that is delegated with the responsibility to enforce the Utah Child Care Licensing Act.**
- (10) **"Child Care Center Licensing Committee" means the Child Care Center Licensing Committee created in the Utah Child Care Licensing Act.**

- (11) **"Conditional Status"** means that the provider is at risk of losing their program's license because compliance with licensing rules has not been maintained.
- (12) **"Covered Individual"** means any of the following individuals involved with the program:
- (a) an owner;
 - (b) a director;
 - (c) a member of the governing body;
 - (d) an employee;
 - ([f]e)** a volunteer, except a parent of a child enrolled in the program; and
 - ([h]f)** anyone who has unsupervised contact with a child in the program.
- (13) **"CPSC"** means the Consumer Product Safety Commission.

Rationale / Explanation

CPSC sets safety standards to protect the public from risks of injury or death associated with products such as toys, furniture, pools, and play equipment. For CPSC safety publications, see www.cpsc.gov.

- (14) **"Department"** means the Utah Department of Health.
- (15) **"Designated Play Surface"** means any accessible elevated surface for standing, walking, crawling, sitting or climbing; or an accessible flat surface at least 2 by 2 inches in size and having an angle less than 30 degrees from horizontal.
- (16) **"Director"** means a person who meets the director qualifications in this rule, and who assumes the program's day-to-day responsibilities for compliance with Child Care Licensing rules.
- (17) **"Emotional Abuse"** means behavior that could harm a child's emotional development, such as threatening, intimidating, humiliating, demeaning, criticizing, rejecting, using profane language, and/or using inappropriate physical restraint.
- (18) **"Entrapment Hazard"** means an opening greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter where a child's body could fit through but the child's head could not fit through, potentially causing a child's entrapment and strangulation.
- (19) **"Facility"** means a program or the premises approved by the Department and licensed by Child Care Licensing.

Rationale / Explanation

The "premises" means the provider's building (or buildings) and grounds.

- (20) **"Group"** means the children who are assigned to and supervised by one or more staff members.

Rationale / Explanation

This definition applies whenever children are under the responsibility of the out-of-school-time provider, both on the premises and offsite.

- (21) **"Group Size"** means the number of children in a group.

- (22) **"Guest"** means an individual who is not a covered individual and is at the facility with the provider's permission.
- (23) **"Health Care Provider"** means a licensed health professional, such as a physician, dentist, nurse practitioner, or physician's assistant.
- (24) **"Homeless"** means anyone who lacks a fixed, regular, and adequate nighttime residence as described in the McKinney-Vento Act. McKinney-Vento Homeless Assistance Act (Title IX, Part A of ESSA)
- (25) **"Inaccessible"** means out of reach of children by being:
- (a) locked, such as in a locked room, cupboard, or drawer;
 - (b) secured with a safety device;
 - (c) behind a properly secured safety gate;
 - (d) located in a cupboard or on a shelf that is at least 48 inches above the floor; or
 - (e) in a bathroom, locked or secured with a safety device.

Rationale / Explanation

Providers must ensure that children are safe by making potential hazards inaccessible.

Approved locking equipment includes:

- Devices specifically manufactured as child safety products such as baby safety gates, child safety locks, and other child safety fastening devices. Child-resistant packaging (such as a medicine bottle safety cap) is not approved locking equipment.
- Locks that use a key or combination to unlock them.
- Locks that use a coin, allen wrench, or similar additional tool to unlock them except when used to lock firearms.
- Locks that do not use a key or combination, such as a deadbolt or hook-and-eye latch, when they are installed at least 60 inches high.
- Properly secured homemade or manufactured child safety gates that are at least 24 inches high from the floor to the top of the gate. The gap between the floor and the bottom of the gate cannot exceed 5 by 5 inches.
- Zip ties, except when used to lock firearms.

To be considered locked and therefore inaccessible:

- A room, area, cabinet, or item is locked or secured with an approved locking device. If a key or combination lock is used, the key hole or combination pad must be on the side child care is taking place.
- A key or other device used to open the lock is not in the lock.
- A safety gate is latched and secure even when bumped or shaken.
- All doors that access the same area, cupboard, closet, or cabinet are locked.

To be considered out of reach of children and therefore inaccessible:

- Items are on counters or shelves and/or in cupboards or drawers that are at least 48 inches high.
- In bathrooms, items are at least 48 inches above any fixture, furniture, or equipment on which a child could stand or climb, such as a toilet, bathtub, counter, cart, chair, stepstool, or ladder. If the fixtures, furniture, or other items have 12 inches or more between them, they will not be considered close enough for a child to move from one surface to another.

Measurements are taken with a wood or metal measuring tool.

- (26) "Infectious Disease" means an illness that is capable of being spread from one person to another.
- (27) "Involved with Children" means to do any of the following at or for an out-of-school-time program licensed by Child Care Licensing:
- (a) supervise or be assigned to work with children in the program;
 - (b) volunteer at an out-of-school-time program;
 - (c) own, operate, direct, or be employed at an out-of-school-time program;
 - (d) reside at a facility where an out-of-school-time program operates; or
 - (e) be present at a facility while an out-of-school-time program operates, except for authorized guests or parents who are dropping off a child, picking up a child, or attending a scheduled event at the program's facility.

Proposed Rule Change

- (27) "Involved with Children" means to do any of the following at or for an out-of-school-time program ~~licensed by Child Care Licensing:~~
- (a) supervise or be assigned to work with children ~~in the program;~~
 - (b) volunteer ~~at an out-of-school-time program;~~
 - (c) own, operate, direct, ~~or be employed at an out-of-school-time program;~~
 - (d) reside at a facility where an out-of-school-time program operates; ~~or~~
 - (e) count in the staff-to-child ratio; or
 - (e) ~~be present at a facility while an out-of-school-time program operates, have unsupervised contact with a child in the program, except for authorized guests or parents who are dropping off a child, picking up a child, or attending a scheduled event at the program's facility.~~
- (28) "License" means a license issued by the Department to provide out-of-school-time program services.
- (29) "Licensee" means the legally responsible person or business that holds a valid license from Child Care Licensing.
- (30) "LIS Supported Finding" means background check information from the Licensing Information System (LIS) database for child abuse and neglect, maintained by the Utah Department of Human Services.
- (31) "McKinney-Vento Act" means a federal law that requires protections and services for children and youth who are homeless including those with disabilities. McKinney-Vento Homeless Assistance Act (Title IX, Part A of ESSA)
- (32) "Over-the-Counter Medication" means medication that can be purchased without a written prescription including herbal remedies, vitamins, and mineral supplements.
- (33) "Parent" means the parent or legal guardian of a child in the program.
- (34) "Person" means an individual or a business entity.
- (35) "Physical Abuse" means causing nonaccidental physical harm to a child.
- (36) "Play Equipment Platform" means a flat surface on a piece of stationary play equipment intended for more than one child to stand on, and upon which the children can move freely.

- (37) **"Protective Barrier"** means a structure such as bars, lattice, or a panel that is around an elevated platform and is intended to prevent accidental or deliberate movement through or access to something.
- (38) **"Protective Cushioning"** means a shock-absorbing surface under and around play equipment that reduces the severity of injuries from falls.
- (39) **"Provider"** means the legally responsible person or business that holds a valid license from Child Care Licensing.

Rationale / Explanation

The provider, namely the licensee, is legally responsible for all aspects of the out-of-school-time program's operation and management, and for compliance with all licensing rules.

- (40) **"Qualifying Child"** means:
- (a) a child who is between 5 and 13 years old and is the child of a person other than the provider or a staff member, and
 - (b) a child with a disability who is between 5 and 18 years old and is the child of a person other than the provider or a staff member.
- (41) **"Related Child"** means a child for whom a provider is the parent, legal guardian, step-parent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.

Proposed Rule Change

(49) "Room" will be defined as follows:

When a large room is divided into smaller rooms or areas with barriers such as furniture or with half walls, the room or area will be considered:

- (a) One room, when the room is divided by a solid barrier that is 24 inches or less, whether the barrier is movable or immovable.
- (b) One room, when the room is divided by a solid barrier that is between 25 and 40 inches in height and there is an opening in the barrier through which caregivers and children can move freely.
- (c) Two rooms, when the room is divided by a solid barrier that is between 25 and 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked such as with a child safety gate. This applies to a diaper changing station that is located behind a closed gate.
- (d) Two rooms, when the room is divided by a solid barrier that is over 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked such as with a child safety gate. If there is an opening through which caregivers and children can move freely and if the opening is not blocked, refer to the instructions for a large opening, archway, or doorway.

When two rooms or areas are connected by a large opening, archway, or doorway, the rooms or areas will be considered:

- (e) One room, when the width of the opening or archway is equal to or greater than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas, and there is no furniture or other dividers blocking the opening or archway. Otherwise this will be considered two rooms.
- (f) Two rooms, when the width of the opening or archway is smaller than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas.

When in outdoor areas separated by interior fences, consider it: (g) One area, when the interior fence is 24 inches or lower in height, whether or not the fence has an opening.

(h) One area, when the interior fence is 40 inches or lower in height with an opening through which caregivers and children can move freely.

(i) Two areas when the interior fence is higher than 24 inches and there is no opening.

(j) Two areas, when the interior fence is higher than 40 inches whether or not the fence has an opening.

(42) "Sanitize" means to use a chemical product to remove soil and bacteria from a surface or object.

Rationale / Explanation

Sanitizing reduces disease-spreading germs from a surface. For a surface to be sanitary, it must be cleaned first. Cleaning removes visible food, dirt, and other kinds of soil from a surface.

Refer to "Section 15: Health and Infection Control" for more information about approved sanitizers and sanitizing procedures.

Proposed Rule Change

(42) "Sanitize" means to use a chemical product to remove ~~soil and~~ bacteria from a surface or object.

(43) "School-Age Child" means a child age 5 through 12 years old.

Rationale / Explanation

For licensing purposes, a child is considered school age on the child's 5th birthday.

(44) "Services" means the supervision and response to the needs of 5 or more qualifying children:

(a) in the absence of the children's parents,

(b) in a place other than the provider's home or the child's home,

(c) for less than 24 hours a day, and

(d) for direct or indirect compensation.

(45) "Sexual Abuse" means abuse as defined in Utah Code, Title 76-5-404(1).

(46) "Sexually Explicit Material" means any depiction of sexually explicit conduct as defined in Utah Code, Title 76-5b-103(10).

(47) "Staff-to-Child Ratio" means the number of staff responsible for a specific number of children.

(48) "Stationary Play Equipment" means equipment such as a climber, slide, swing, merry-go-round, or spring rocker that is meant to stay in one location when a child uses it. Stationary play equipment does not include:

(a) a sandbox;

(b) a stationary circular tricycle;

(c) a sensory table; or

(d) a playhouse that sits on the ground or floor and has no attached equipment, such as a slide, swing, or climber.

- (49) **"Strangulation Hazard"** means something on which a child's clothes or drawstrings could become caught or something in which a child could become entangled such as:
- (a) a protruding bolt end that extends more than 2 threads beyond the face of the nut;
 - (b) hardware that forms a hook or leaves a gap or space between components such as a protruding S-hook; or
 - (c) a rope, cord, or chain that is attached to a structure and is long enough to encircle a child's neck.

Proposed Rule Change

- (49) **"Strangulation Hazard"** means something on which a child's clothes or drawstrings could become caught, or something in which a child could become entangled such as:
- (a) a protruding bolt end that extends more than 2 threads beyond the face of the nut;
 - (b) hardware that forms a hook or leaves a gap or space between components such as a protruding open S-hook; or
 - (c) a rope, cord, or chain that is attached to a structure and is long enough to encircle a child's neck.

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- (50) **"Substitute"** means an individual who temporarily assumes the responsibilities to supervise and work with the children when the assigned staff member is not present.
- (51) **"Unrelated Child"** means a child who is not a "related child" as defined in R381-70-2(41).
- (52) **"Unsupervised Contact"** means being with, caring for, communicating with, or touching a child in the absence of a staff member who is at least 18 years old and has passed a Child Care Licensing background check.
- (53) **"Use Zone"** means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment, and onto which a child falling from or exiting the equipment could be expected to land.
- (54) **"Volunteer"** means an individual who receives no form of direct or indirect compensation for their service.

Rationale / Explanation

Indirect compensation is a noncash payment of goods, time, or service that is given to an individual in exchange for their help.

- (55) **"Working Days"** means the days of the week the Department is open for business.

Rationale / Explanation

The Department is open for business on Mondays through Fridays from 8:00 a.m. to 5:00 p.m. except on federal and state holidays.